

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

4 UNITED STATES OF AMERICA, ) 4:09 CR 360 CDP  
5 Plaintiff, )  
6 vs. ) St. Louis, Missouri  
7 JAMES VERNON JOSEPH, Jr., ) July 9, 2009  
8 Defendant. )

TRANSCRIPT OF HEARING  
BEFORE MAGISTRATE DAVID D. NOCE

## APPEARANCES:

For the Government: Ms. Tiffany Becker  
Assistant US Attorney  
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St. Louis, Missouri 63102

For the Defendant: Mr. Joel Schwartz  
Attorney at Law  
120 South Central, Suite 130  
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Transcribed by:

Lynne Shrum,  
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Eagleton Courthouse  
St. Louis, MO 63102

1                   THE COURT: United States versus James Vernon  
2 Joseph, Jr, case number 4:09-CR-360. The matter is before  
3 the Court this morning for pretrial proceedings.

4                   Ms. Becker is here for the United States.

5                   Mr. Schwartz is here representing Mr. Joseph and Mr.  
6 Joseph is here.

7                   Mr. Schwartz, do you have an announcement to make this  
8 morning?

9                   MR. SCHWARTZ: Yes, Your Honor. Having discussed  
10 the matter with Mr. Joseph, we made a collective decision to  
11 file a waiver of right to file pretrial motions.

12                  THE COURT: All right. Mr. Joseph, you heard what  
13 Mr. Schwartz just said. That correct?

14                  MR. JOSEPH: Yes.

15                  THE COURT: All right. I'm going to ask you a  
16 couple of questions about that and for that purpose, I'm  
17 going to place you under oath.

18                  Would you raise your right hand.

19                  (Defendant sworn to tell the truth.)

20                  THE COURT: All right. Is -- what Mr. Schwartz  
21 said, is that accurate, that you've discussed the matter and  
22 have joined with him in filing the waiver of pretrial  
23 motions.

24                  Is that right?

25                  MR. JOSEPH: Yes.

1                   THE COURT: All right. You know that pretrial  
2 motions are documents that you and your attorney would  
3 discuss and assuming there is something to bring to the  
4 Court's attention, those documents could call into question  
5 some or all of the government's case against you. The Court  
6 would hold a hearing and, in fact, a hearing is -- was set  
7 for today and would make a decision, one way or the other, on  
8 such motions.

9                   You understand that?

10                  MR. JOSEPH: Yes.

11                  THE COURT: All right. And you're -- you're  
12 agreeing to -- appearing before Judge Perry without having  
13 filed such motions or having pretrial hearing on such issues;  
14 is that correct?

15                  MR. JOSEPH: That's correct.

16                  THE COURT: All right. And you know that making  
17 that choice at this time you won't be able to change your  
18 mind in the future and go forward and have a pretrial hearing  
19 on pretrial matters in the future.

20                  You understand that?

21                  MR. JOSEPH: Yes.

22                  THE COURT: Is anybody forcing you to do this?

23                  You're doing this after discussing the matter with Mr.  
24 Schwartz, and perhaps there have been conversations with the  
25 government.

1 IS that a fair statement, Mr. Schwartz?

2 MR. SCHWARTZ: Yes.

3 THE COURT: All right. And --

4 MR. JOSEPH: Yes.

5 THE COURT: -- and you're agreeing.

6               Okay. Okay. I will so advise Judge Perry and further  
7 proceedings then will be before her. If there is to be a  
8 jury trial, it would be set for August 17th, 2009 at 8:30.  
9 If there is to be some other disposition of the case, I'll  
10 leave it to counsel to schedule that with Judge Perry's  
11 office, so that was August 17th at 8:30. Okay?

12 MR. SCHWARTZ: Thank you.

13                  Do you have a written waiver that you want us to file,  
14 or is what I filed sufficient?

15 THE COURT: What you filed is sufficient.

16 MR. SCHWARTZ: Thank you.

17 THE COURT: Thank you very much.

18 (Recess.)

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2 CERTIFICATE

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/s/ Lynne Shrum

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